

## FORM FOR USE IN APPLICATIONS

RECEIVED

FOR HABEAS CORPUS UNDER 28 U.S.C. §2254

2005 DEC 27 11:59  
BILLY GAY ALLS  
 Name  
161437  
 Prison Number  
EASTERLING C.F. ; 200 WALLACE DRIVE  
CLIO, ALABAMA ; ZIP 36017  
 Place of Confinement

United States District Court Middle District of ALABAMA  
 Case No. 3:05 CV1228-F  
 (To be supplied by Clerk of U. S. District Court)

BILLY GAY ALLS, PETITIONER  
 (Full name) (Include name under which you were convicted)

Gwendolyn moseley ; Easterling C.F., RESPONDENT  
 (Name of Warden, Superintendent, Jailor, or authorized person  
 having custody of Petitioner)

and

THE ATTORNEY GENERAL OF THE STATE OF TROY KING ; 11 South Union Street  
MONTGOMERY, ALABAMA, ZIP 36130-152, ADDITIONAL RESPONDENT.

(if petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. §2255, in the federal court which entered the judgment.)

PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN  
 STATE CUSTODY

## INSTRUCTIONS--READ CAREFULLY

- (1) This petition must be legibly handwritten or typewritten and signed by the petitioner under penalty of perjury. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury. All questions must be answered concisely in the proper space on the form.

The Judicial Conference of the United States has adopted, effective 1/1/83, the 8-1/2 x 11 inch paper size standard for use throughout the federal judiciary and directed the elimination of the use of legal size paper. All pleadings, etc. filed after 12/31/82 must be on 8-1/2 x 11 inch paper, otherwise we cannot accept them.

- (2) Additional pages are not permitted except with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) Upon receipt of a fee of \$5 your petition will be filed if it is in proper order.
- (4) If you do not have the necessary filing fee, you may request permission to proceed in forma pauperis, in which event you must execute the declaration on the last page, setting forth information establishing your inability to prepay the fees and costs or give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (5) Only judgments entered by one court may be challenged in a single petition. If you seek to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (6) Your attention is directed to the fact that you must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (7) When the petition is fully completed, the original and two copies\* must be mailed to the Clerk of the United States District Court whose address is  
P. O. Box 711, Montgomery, Alabama 36101
- (8) Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

\*If you are proceeding in forma pauperis, only the original petition needs to be filed with the Court.

#### PETITION

1. Name and location of court which entered the judgment of conviction under attack RANDOLPH COUNTY CIRCUIT COURT OF ALABAMA
2. Date of judgment of conviction 2-4-91
3. Length of sentence TWO LIFE Sentencing Judge DALE SEQUEST
4. Nature of offense or offenses for which you were convicted: MURDER AND ROBBERY ONE
5. What was your plea? (check one)
  - (a) Not guilty ( )
  - (b) Guilty (☒)
  - (c) Nolo contendere ( )

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details: I PLEAD GUILTY TO MURDER AS AGREEMENT, AND THE ROBBERY CHARGE WAS DISMISS BUT I GOT TWO LIFE SENTENCES RUNNING WILD

6. Kind of trial: (Check one)  
 (a) Jury ( )  
 (b) Judge only ☒
7. Did you testify at the trial? Yes ( ) No ☒
8. Did you appeal from the judgment of conviction? Yes ( ) No ☒
9. If you did appeal, answer the following:  
 (a) Name of court \_\_\_\_\_  
 (b) Result N/A  
 (c) Date of result \_\_\_\_\_  
 If you filed a second appeal or filed a petition for certiorari in the Supreme Court, give details: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal? Yes ☒ No ( )
11. If your answer to 10 was "yes", give the following information:  
 (a)(1) Name of court RANDOLPH COUNTY CIRCUIT COURT  
 (2) Nature of proceeding RULE 32 PROCEEDING  
INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL  
 (3) Grounds raised MOTION CHALLENGING A COERCE GUILTY PLEAD  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( ) No ☒  
 (5) Result N/A  
 (6) Date of result \_\_\_\_\_  
 (b) As to any second petition, application or motion give the same information:  
 (1) Name of court COURT OF CRIMINAL APPEAL  
 (2) Nature of proceeding PETITION FOR A WRIT OF HABEAS CORPUS  
ON TRIAL COURT  
 (3) Grounds raised SEEKING AN ORDER FROM CRIMINAL COURT OF APPEAL TO ISSUE AN ORDER ON TRIAL COURT TO ISSUE AN ORDER ON DISTRICT ATTORNEY TO RESPOND ON THE RULE 32 PETITION THAT WAS FILED ON  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( ) No ☒  
 (5) Result DENIED  
 (6) Date of result SEPTEMBER 21, 2005  
FILE A APPLICATION FOR REHEARING BACK WITH THE COURT OF CRIMINAL APPEAL GROUNDS RAISED, ASK THE COURT TO RECONSIDER IT ORDER DENIED IN THE PETITION FOR WRIT OF HABEAS CORPUS.  
Result: Denied  
DATE OF RESULT: OCTOBER 6, 2005

(c) As to any third petition, application or motion, give the same information:

(1) Name of Court ALABAMA SUPREME COURT

(2) Nature of proceeding PETITION FOR WRIT OF CERTIORARI

(3) Grounds raised PETITION THE COURT ARGUMENT IN SUPPORT APPLICATION FOR REHEARING? INEFFECTIVE ASSISTANCE OF COUNSEL PRESENTED FOR RELIEF? APPLICATION FOR REHEARING OF A DECISION ON A MANDAMUS PETITION? MOTION TO WITHDRAW GUILTY PLEA AND ENTER A PLEA OF NOT GUILTY.

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ( ) No (☒)

(5) Result Denied

(6) Date of result December

(d) Did you appeal to the highest state court having jurisdiction the result of any action taken on any petition, application or motion:

(1) First petition, etc. Yes (☒) No ( )

(2) Second petition, etc. Yes (☒) No ( )

(3) Third petition, etc. Yes (☒) No ( )

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. As to all grounds on which you have previously exhausted state court remedies, you should set them forth in this petition if you wish to seek federal relief. If you fail to set forth all such grounds in this petition, you may be barred from presenting them at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted all your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

If you select one or more of these grounds for relief, you must allege facts in support of the ground or grounds which you choose. Do not check any of the grounds listed below. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest, [where the state has not provided a full and fair hearing on the merits of the Fourth Amendment claim].
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: With DRAW Guilty PLEA

Supporting FACTS (tell your story briefly without citing cases or law): MY ATTORNEY Thomas E. Jone Coerced me in Pleading Guilty To the MURDER CHARGE: MR Jone Told me that IF I would Plead Guilty To the MURDER CHARGE That the PROSECUTE had Agreed To DROP The Robbery CHARGE.  
But ON FEBRUARY, 4, 1991 When The Judge PROCEEDED To Sentence me The Judge Sentence me To SERVE Two Consecutive Life Sentence.

- B. Ground two: The PROSECUTE FAILURE To Disclose Evidence OF other Witnesses That Could HAVE PROVE my Innocent  
 Supporting FACTS (tell your story briefly without citing cases or law): MS. Ruthie Jordan STATEMENT That she GAVE To The Investigator, Billy ALLS CAME to my house At 11:30 AM, ALABAMA time; 12:30 Georgia Time he CAME into my house And Set in the sofa CHAIR And went to Sleep he did not Leave until my husband A.D. CAME home They TALK Then Billy ALLS Left At 6:00 o'clock P.M. ALABAMA Time; 7:00 P.M. Georgia

NOTE → The Time that they said I KILL him, I CAN PROVE WITH PHYSICAL EVIDENCE that he was ALIVE And Well, I did not do this MURDER Give me A Chance to PROVE my Innocent.

C. Ground three: INEFFECTIVE ASSISTANCE OF TRIAL COUNSELThomas E. Jones

Supporting FACTS (tell your story briefly without citing cases or law): Counsel was Ineffective Assistance for leading me to believe that the Prosecutor had agreed to Except A Plea of Guilty for the murder charged (C-90-007) for the Robbery charge to be dropped if I would Except the District Attorney offer, I would receive Twenty (20) year and would be giving Parole after I served Eight (8) years.

Mr. Jones was Ineffective Assistance of Counsel when he failure to Advise me of the Right to Appeal of my conviction if I didn't like how they sentence me. He told me not to say anything while the Judge was sentencing me.

## D. Ground four:

Supporting FACTS (tell your story briefly without citing cases of law):

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal state briefly what grounds were not so presented, and give your reasons for not presenting them: First of All this is the first opportunity I had to present them. I did not know that I could Appeal and present these issues on Appeal on Rule 32 Proceeding.

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes ( ) No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (a) At preliminary hearing Thomas E. Jones: ATT AT LAW  
P.O. Box 1567; AUBURN, ALA. ZIP 36831
- (b) At arraignment and plea DONALD R CLEVELAND: ATT AT LAW  
728 Third Avenue; P.O. Box 527; West Point GEORGIA; ZIP 31833